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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/766,725	01/22/2001	Egbert Jux	CL/V-30578A	1309
31781	7590	12/20/2005	EXAMINER	
CIBA VISION CORPORATION PATENT DEPARTMENT 11460 JOHNS CREEK PARKWAY DULUTH, GA 30097-1556			ANGEBRANNDT, MARTIN J	
			ART UNIT	PAPER NUMBER
			1756	

DATE MAILED: 12/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	09/766,725	JUX ET AL.	
	Examiner	Art Unit	
	Martin J. Angebrannt	1756	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 9/21/05 & 10/21/05.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,3-7,10-15,22,23 and 25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,10-15,22,23 and 25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1. The response of the applicant has been read and given careful consideration. The certified translation has been received and the ribboned copy of the priority document has been received and the applicant is accorded the date of 06/22/1998. Responses to the arguments of the applicant are presented after the first rejection to which they are directed.

2. Claim 13 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

The stopper bar limitation appears in claim 1.

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1,3-7,10,13,15 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin et al. '087, in view of Duis et al. '090, Kiyosaki JP 08-047784 and Crobett '361.

Martin et al. '087 teach blister packages comprising a polymer layer (30) printed on both sides, an adhesive layer (32), a foil (34), a laquer layer (38), an adhesive layer (40) and a polypropylene layer (50) which is heat welded to the formed polypropylene lens package (14) (figures 5 and 6, 6/21-8/61). Information specific to the product (which is changeable), such as lot numbers, expiration dates, contact lens powers are formed by printing on the outside of the polymer layer (30) (8/27-31). The blister packs are shown in strips of five (figure 1). The blister packages are marked prior to forming the microperforations allowing the individual elements to

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be separated, but the blister packages have already been sealed and are separate from one another into arrays of blister units (8/27-39). The markings include Manufacturer information, product information, lot numbers, expiration dates and contact lens powers. (7/59-8/31)

Duis et al. '090 teach labels for contact lens blister packs comprising a polymer layer (50) printed on both sides (62,52), an adhesive layer (56), a foil (54), an adhesive layer (58) and a polypropylene layer (60). The use of laser marked/ablated labels allows the sealed blister packages to be steam sterilized, which cannot be done with thermal transfer marking processes. (abstract and 5/30-60) The laser ablation removes an ink layer to reveal an underlying ink layer of a different/contrasting color or all the layers above the metal foil (see figure 2 and 4/34-5/26). The laser ablation can be preformed either before or after the stock is affixed to the container. (5/27-29). The polymer layer (50) has printing on either side. The use of a colored polymeric layer rather than a metal foil layer (54) is disclosed. The ablation is preformed with a carbon dioxide layer (10.63 microns wavelength and 90-100% of 15 Watt power over a 4 inch square area (4/53-5/15). The marking is apparently done on the array of blister packs forming the product container.

Kiyosaki JP 08-047784 (note machine translation) shows marked blister packs in figures 3 and 4. These are marked as part of the continuous process disclosed with respect to figure 2. The carbon dioxide laser and marking optics are shown as 11 and 12 in figure 2. The use of a laser to remove a portion of an ink layer in section [0004]. The PVC (polyvinyl chloride, a plastic) is discolored by the CO<sub>2</sub> laser irradiation and each pocket of the blister pack is marked. [0011]. The apparatus "8" punches out each of the separate groups. The apparatus "6" seals the packaging. These are shown in figures 3 and 4 as two columns of 5 tablets. Each if the columns

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is considered as strip. The blister pack is a laminate as the blister is formed between two layers. Apparatus 10 marks the packages after they are sealed by apparatus 6, but before they are divided. The use of either PVC or polypropylene and the use of discoloration or simple recessing as the marks is disclosed. [0005].

Crobett '361 teaches the use of an indexing pin (26), which is used to hold the carrier until all the chips are laser marked. (5/46-6/9). The use of carbon dioxide and Nd:YAG or Nd:YFL lasers is disclosed. (5/59-60). The use of debris removal is disclosed. (6/3-9). The use of the pins of the chip or a separate holder to keep the chips on the rail is shown in figures 3 and 6 where their motion is driven by gravity (see figure 1).

It would have been obvious to modify the process set forth in Martin et al. '087 by marking the blister packs after heat sealing them as taught by Kiyosaki JP 08-047784 and Duis et al. '090 and to use a carbon dioxide laser to laser ablate markings down to the foil level as taught by Duis et al. '090 rather than using printing to enable steam sterilization. There is a reasonable expectation of success based upon the similarity of the laminates of Martin et al. '087 and Duis et al. '09 and to temporarily holds the blister packs stationary so they can be marked by the lasers using retractable index pins such as those taught by Crobett '361. The marking of stationary materials would be much easier and have clearer markings.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). The applicant may be trying to articulate that Kiyosaki JP 08-047784 does not cut the web into individual elements (blister

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packs) until after marking and so would not require a stop bar. The examiner notes this, but points out that Martin et al. '087 and Duis et al. '090 mark the units while they are blister packages and to control the motion of the individual units in the marking area, a stop bar would be needed as no longer carrier is present. Therefore the use of stop bars speaks as taught by Crobett '361, speaks to this and the examiner also notes the shapes of the features 18 and 20 of Martin et al. '078 and the similar features shown in figure 4 of Duis et al. 090 would allow them to be moved on a rail in the manner taught by Crobett '361.

The Crobett '361 reference has an earlier date.

5. Claims 1,3-7,10-13,15 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin et al. '087, in view of Duis et al. '090, Kiyosaki JP 08-047784, Crobett '361 and Roy '771.

Roy '771 teaches that carbon dioxide lasers, and YAG laser are known to be useful in laser marking (3/36-51). The energy, wavelength and laser spot size are disclosed. (5/51-62 and table 1.) The laser spot size is equivalent to the hole size.

In addition to the basis provided above, Roy '771 teaches the equivalence of carbon dioxide and Nd-YAG lasers in laser marking processes as well as the size of width of the markings which is the same as the laser beam and the examiner holds that it would have been obvious to one of ordinary skill in the art to modify the invention of the combination of Martin et al. '087 with Duis et al. '090, Crobett '361 and Kiyosaki JP 08-047784 by using other lasers and/or laser spot sizes, such as those taught by Roy '771 based upon the disclosure of equivalence within that reference.

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The rejection stands for the reasons above as no further arguments were directed at this rejection.

6. Claims 1,3-7,10-15 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin et al. '087, in view of Duis et al. '090, Kiyosaki JP 08-047784, Crobett '361 and Roy '771, further in view of Ibarra '323

Ibarra '323 teaches laser marking of chips where indexing pins are used to hold the chips in a certain location. (3/24-40). There are plural marking lines, directly adjacent to one another and after a chip has been marked and is released, the laser head moves to the adjacent line and marks another, alternating between the lines. (3/42-58).

In addition to the basis provided above, the examiner holds that it would have been obvious to one of ordinary skill in the art to modify the invention of the combination of Martin et al. '087 with Duis et al. '090, Crobett '361, Kiyosaki JP 08-047784 and Roy '771 by running plural lines which allows one head to be used to mark two production lines as taught by Ibarra '323.

This is a new line of rejection

7. Claims 1,3-7,10-13,15,22,23,25 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin et al. '087, in view of Duis et al. '090, Kiyosaki JP 08-047784, Crobett '361, Roy '771 and Kim et al. '878

Kim et al. '878 teach that the polymeric (plastic) sheet may be colored or not. (8/57-61). Various thermoplastic polymers, including PVC and polypropylene are disclosed. (3/7-40). The use of aluminum foil backing is also disclosed. (8/46-57)

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In addition to the basis provided above, the use of either colored or uncolored plastics is considered obvious based upon the disclosure of Kim et al. '878. The use of the colorant makes no difference to the marking as the polymer itself absorbs the laser in the combination of Martin et al. '087 with Duis et al. '090, Crobett '361, Kiyosaki JP 08-047784 and Roy '771, but the addition of a colorant could increase the spectral absorption properties of the film to allow the use of other lasers, such as Nd-YAG lasers.

The rejection stands for the reasons above as no further arguments were directed at this rejection.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Canella et al. '235 teaches indexing pins 24d, which are solenoid operated and serve to stop the semiconductor chips while they are being marked in the marking field (6/7-59) The chips then move to the debris removal area (6/60-7/9). The lasers may be carbon dioxide or Nd:YAG lasers (6/27-34).

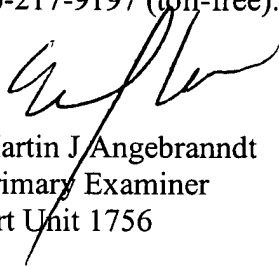
9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Martin J. Angebrannndt whose telephone number is 571-272-1378. The examiner can normally be reached on Monday-Thursday and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Huff can be reached on 571-272-1385. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Martin J. Angebranndt  
Primary Examiner  
Art Unit 1756

12/15/05